

Message Text

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PAGE 01 ROME 17034 091704Z

43

ACTION EB-07

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FM AMEMBASSY ROME

TO SECSTATE WASHDC 8562

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E.O. 11652: N/A

TAGS: EAIR, IT, US

SUBJECT: CIVAIR - LANGUAGE DIFFERENCES IN MEMORANDUM OF UNDER-
STANDING

REF: STATE 267093

1. PROPOSAL IN REFTEL TO IGNORE LANGUAGE DIFFERENCES IN PARA 5 OF MAY 21, 1970 US-ITALY MEMORANDUM OF UNDERSTANDING (MOU) DOES NOT RPT NOT RESOLVE PROBLEM.
2. FACT THAT ENGLISH VERSION IS CLEAR AND IN USG VIEW DOES NOT REQUIRE AMENDMENT DOES NOT PRECLUDE GOI FROM (A) INSISTING THAT ALL RPT ALL SCHEDULES, NOT JUST THOSE PROVIDING FOR CAPACITY INCREASE, BE FILED 90/60 DAYS IN ADVANCE AND (B) REQUESTING CAPACITY CONSULTATIONS WHENEVER ALITALIA BELIEVES PROPOSED CAPACITY IS EXCESS TO TRAFFIC REQUIREMENTS EVEN IF NO RPT NO CAPACITY INCREASE IS INVOLVED. THESE DIFFERING LEGAL REQUIREMENTS HAVE CAUSED PROBLEMS IN PAST AND ARE HIGHLY LIKELY DO SO IN FUTURE. EMBASSY BELIEVES IT PREFERABLE RESOLVE THESE DIFFERENCES BEFORE ANOTHER REQUEST FOR CAPACITY CONSULTATIONS BASED ON SCHEDULES WHICH PROVIDE FOR NO RPT NO CAPACITY INCREASE IS RECEIVED FROM GOI.
3. GIVEN ALITALIA'S PRESENT AUSTERITY PROGRAM, WHICH INCLUDES

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PAGE 02 ROME 17034 091704Z

SUBSTANTIAL CAPACITY REDUCTION ON MOST ROUTES, AND FAILURE

PAA/TWA/ALITALIA TO REACH AGREEMENT DURING CAPACITY TALKS WHICH BEGAN NOVEMBER 6, 1974, EMBASSY ANTICIPATES GOI WILL REQUEST CAPACITY CONSULTATIONS OVER 1975 SUMMER SCHEDULE EVEN IF (AS APPEARS HIGHLY LIKELY) THESE SCHEDULES PROVIDE FOR LESS CAPACITY THAN DURING 1974 SUMMER SEASON. REQUEST WILL BE BASED ON ITALIAN VERSION PARA 5 OF MOU.

4. USG POSITION THAT ENGLISH VERSION GOVERNS SOMEWHAT COMPROMISED BY FACT THAT ALL SCHEDULES HAVE BEEN FILED (ON DEPARTMENTS INSTRUCTIONS) WITH MFA QTE FOR INFORMATION UNQTE 90/60 DAYS IN ADVANCE, EVEN WHEN NO CAPACITY INCREASE PROPOSED. FAILURE FILE SCHEDULES, GIVEN PAST BEHAVIOR, WOULD CERTAINLY PROVOKE COUNTERPRODUCTIVE CONFRONTATION, AS WOULD FAILURE HONOR GOI REQUEST FOR CAPACITY CONSULTATIONS BECAUSE IT BASED ON ITALIAN RATHER THAN ENGLISH LANGUAGE VERSION OF MOU.

5. EMBASSY THEREFORE PROPOSES COMPROMISE BASED ON USG ACCEPTANCE ITALIAN VERSION PARA 5(A) OF MOU AND GOI ACCEPTANCE OF PRINCIPLE THAT CAPACITY CONSULTATIONS CAN BE REQUESTED UNDER MOU ONLY WHEN CAPACITY INCREASE IS PROPOSED. USG SHOULD BE WILLING RECOGNIZE, IN SEPARATE STATEMENT, THAT FUNDAMENTAL CHANGE IN MARKET CONDITIONS WOULD JUSTIFY REQUEST FOR CONSULTATIONS UNDER ARTICLE 11 (A) OR ARTICLE 9(E) OF US-ITALY AIR TRANSPORT AGREEMENT.

6. THERE IS GOOD OPERATIONAL REASON FOR FILING ALL SCHEDULES IN ADVANCE; PROPER AIRPORT MANAGEMENT REQUIRES ADVANCE NOTICE OF ARRIVAL/DEPARTURE TIMES, AIRCRAFT TYPES, AND NUMBER OF PASSENGERS. EMBASSY HAS BEEN TOLD GOI CANNOT ACCEPT ENGLISH VERSION OF LEGAL BASIS FOR CAPACITY CONSULTATIONS UNLESS USG WILLING RECOGNIZE THAT, UNDER SPECIAL CIRCUMSTANCES, CAPACITY CONSULTATIONS MIGHT BE JUSTIFIED EVEN IN ABSENCE CAPACITY INCREASE. EMBASSY BELIEVES DEVELOPMENTS DURING LAST YEAR HAVE ADEQUATELY DEMONSTRATED VALIDITY OF THIS POINT.

7. EMBASSY WOULD APPRECIATE WASHINGTON AGENCY VIEWS ASAP. VOLPE

NOTE BY OC/T: REFTEL APPARENTLY INCORRECT.

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